



May 19, 2017

Via ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: NOTICE OF EX PARTE
WT Docket No. 16-319**

Dear Ms. Dortch,

In the Rural Wireless Association's ("RWA") Application for Review of a December 21, 2016 decision ("Waiver Letter") by the Chief of the Mobility Division of the Federal Communications Commission's ("FCC" or "Commission") Wireless Telecommunications Bureau ("Bureau") granting T-Mobile License LLC ("T-Mobile") a conditional waiver of Section 27.14(g)(1) of the Commission's rules, RWA argued, among other things, that the Waiver Letter failed to address the argument that granting T-Mobile the requested waiver would harm the public interest by *delaying the provision of new service to rural areas*. Recent filings by T-Mobile provide additional evidence that T-Mobile is and intends to continue to provide service only to the most populated areas of Montana where service is already provided by other carriers and that *T-Mobile has no intention of bringing new service to currently unserved rural areas*.

On February 17, 2017, T-Mobile filed its FCC Form 601 depicting coverage to more than 35% of the Montana 5 CMA. On April 21, 2017, T-Mobile filed an ex parte letter reporting to the Commission that it had met its first performance benchmark. While it is true that T-Mobile has to date done what is required of it under the terms of the Waiver Letter, **T-Mobile has not brought any new service to rural America.**

In its waiver petition, T-Mobile promised to:

- "serve Chairman Wheeler's goal of 'promoting competition [in rural areas] where it may not be fulsome' by providing T-Mobile's LTE broadband wireless services to customers in parts of rural Montana and Wyoming who need it most."¹
- "[B]ring new retail competition" to "the rural residents of Montana and Wyoming covered by these Licenses" who "suffer from a lack of wireless competition."²

¹ Waiver Petition at pp. 3-4.

² *Id.* at p.4.

- “benefit” “[t]ribal lands, which are . . . underserved.”³
- “promote fiber deployment to areas where it does not exist today.”⁴
- “serve the public interest by helping to close the rural coverage gap.”⁵
- “use the Licenses to bring more robust mobile voice and data services to sparsely populated areas of Montana.”⁶

To date, T-Mobile has done none of these things and, as discussed below, its recent petition for reconsideration of the FCC’s Mobility Fund Order demonstrate that it has no intention to do so in the future. As evidenced by its April 21 ex parte, T-Mobile has failed to bring new service to sparsely populated areas of Montana and Wyoming and accordingly has done nothing to close the rural coverage gap as promised, nor has it expanded its network to serve more than a negligible portion of tribal lands.⁷

Initially, it should be noted that the coverage shown by T-Mobile is overstated as a result of its depiction of coverage based on a -118 dbm Reference Signal Power Receive Power (RSRP) standard. In T-Mobile’s filing showing its LTE coverage in the Montana 5 CMA, the -118 dBm signal strength is based on RSRP, using a measurement showing “fringe” coverage, and while the signal may be usable by 2G standards, the potential for interference and high latency fails to make it a quality LTE signal. Nonetheless, as discussed below, even assuming that the area depicted as covered by T-Mobile is actually covered by a usable low quality signal, the newly covered area fails to achieve the primary public interest benefits touted by T-Mobile.

The area newly served by T-Mobile consists primarily of populated areas such as Missoula, the second largest city in Montana (Population: 66,788) and Helena, the sixth largest city in Montana (Population: 28,190), and heavily traveled transportation corridors, including interstate highways 90 and 15.⁸ Moreover, the area newly served by T-Mobile falls entirely within the same area already served by multiple other providers.⁹ Accordingly, T-Mobile has done nothing to close the rural coverage gap in Montana and yet it continues to be in a position to hold the areas it does not serve hostage because of the Bureau’s grant of the waiver.

³ *Id.*

⁴ *Id.* at p. 5.

⁵ *Id.* at p. 14.

⁶ *Id.* at p. 15.

⁷ Based on the map provided by T-Mobile, it appears that very little, if any, Tribal land has been covered by T-Mobile, but for purposes of this filing, RWA will concede that T-Mobile may be providing service to a de minimis portion of the Flathead Reservation that is in close proximity to Missoula.

⁸ I-90, a major interstate highway passing through Montana 5, experiences average annual daily traffic (“AADT”) of over 10,000 vehicles. I-15, another interstate passing through Montana 5, has AADT of over 4,000 vehicles. *See* http://mdt.mt.gov/other/webdata/external/Planning/traffic_reports/vmt_sum_by_route.pdf.

⁹ *See* AT&T 4G LTE Coverage, <https://www.att.com/maps/wireless-coverage.html> (last accessed May 9, 2017); Verizon Wireless 4G LTE Coverage, <https://vzwmap.verizonwireless.com/dotcom/coveragelocator/> (last accessed May 9, 2017). Each of these coverage maps is attached hereto.

On April 27, 2017, T-Mobile filed a Petition for Reconsideration of the FCC's *Mobility Fund Order*.¹⁰ In that petition, T-Mobile argued that the Commission should revise the speed requirement from 10 Mbps downlink throughput and 1 Mbps uplink throughput to a threshold of 5/1 because "it would be overly burdensome to expect carriers to consistently meet [a 10 Mbps download] standard in the rural and other hard-to-serve areas."¹¹ Accordingly, while T-Mobile claimed in its Waiver Petition that its plan is to "bring more robust mobile voice and data services to sparsely populated areas of Montana and Wyoming," it now claims in its Petition for Reconsideration that it has no intention of bringing more robust services to these areas or any rural areas for that matter. Alarming, even if T-Mobile were to provide service to areas that it has thus far failed to serve in order to meet its next benchmark, it would be doing so at far from robust speeds.

T-Mobile received support for its waiver request from Montana state legislators who relied on T-Mobile meeting its commitment to "provide additional communications choices . . . particularly in rural areas and tribal lands, where communications options and competition are limited."¹² T-Mobile also received support for its waiver request from Montana's two U.S. Senators who relied on T-Mobile meeting its commitment to "quickly deploy this spectrum and bring better service and additional competition to rural areas in Montana."¹³ T-Mobile has failed to provide the service on which this legislative support was predicated.

T-Mobile's game of smoke and mirrors is reprehensible and the Commission must not allow it to continue to abuse the rules through a waiver that should never have been granted in the first place. T-Mobile's Petition for Reconsideration speaks volumes about its commitment to rural America. It may have successfully pulled the wool over the Bureau's eyes along with the state legislators and two U.S. Senators who supported its scheme, but the Commission should acknowledge that T-Mobile has spoken out of both sides of its mouth and its conflicting commitments cannot be reconciled. T-Mobile's recent filings in this proceeding and in response to the *FCC's Mobility Fund Order* belie and undermine its public interest claims and provide further support for the grant of RWA's Application for Review.

¹⁰ *Connect America Fund; Universal Service Reform – Mobility Fund*, WC Docket No. 10-90; WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152 (2017) ("*Mobility Fund Order*").

¹¹ Petition for Reconsideration at p. 4.

¹² *Ex Parte letter* from Montana State Representative Daniel Zolnikov, WT Docket No. 16-319, November 3, 2016. *See also ex parte letter* from Montana State Senator Doug Kary, WT Docket No. 16-319, November 5, 2016.

¹³ Letter from U.S. Senators Steve Daines and Jon Tester to FCC Chairman Tom Wheeler, October 6, 2016, attached as Exhibit A to Petitioners' Reply to Comments of the Rural Wireless Association, Inc., WT Docket No. 16-319, filed November 7, 2016.

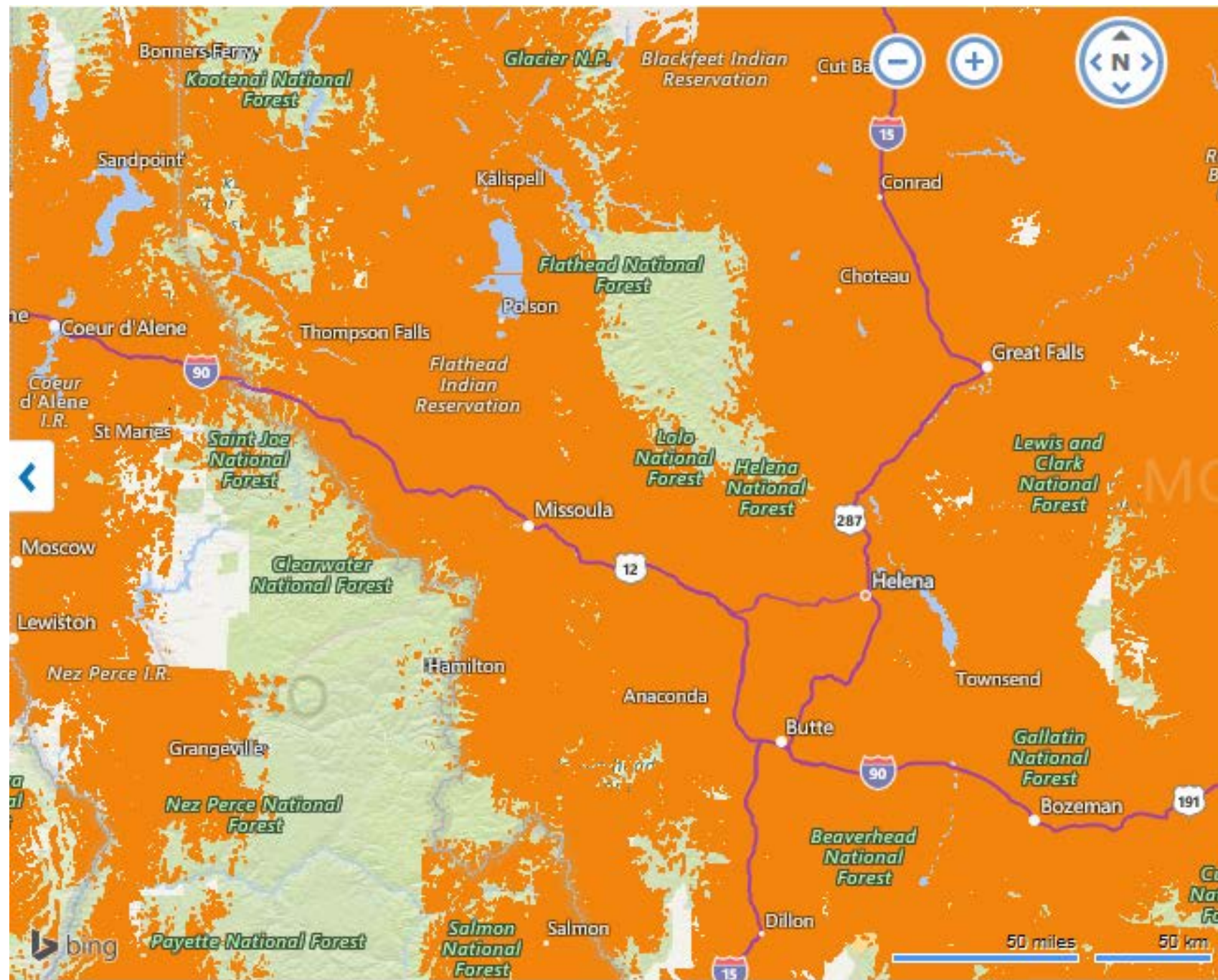
Pursuant to Section 1.1206 of the FCC's Rules, 47 C.F.R. § 1.1206, this *ex parte* is being filed electronically with the Office of the Secretary.

Respectfully submitted,

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Verizon Wireless 4G LTE Coverage

